

**BOARD OF APPEALS CASE NO. 4888**

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**BEFORE THE**

**APPLICANT: George Springfield**

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**ZONING HEARING EXAMINER**

**REQUEST: Special Exception and  
variances to locate a motor vehicle repair  
shop in the B1 District; 2201 Philadelphia  
Road, Edgewood**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 1/27/99 & 2/3/99**

**HEARING DATE: March 10, 1999**

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**Record: 1/29/99 & 2/5/99**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, George Springfield, appeared before the Hearing Examiner requesting a Special Exception to Section 267-53(D)(3) of the Harford County Code, to allow a motor vehicle repair shop and a variance to Section 267-53(D)(3)(a), (e) and (i) to have less than the required 10 foot buffer along an adjacent right-of-way or adjacent residential lot and to allow the rental and storage of trailer, boats and trucks and to conduct the use on less than the required minimum 1 acre in a B1, Neighborhood Business District.

The subject parcel is located at 2201 Philadelphia Road in the First Election District. The parcel is identified as Parcel No. 148, in Grid 1-F, on Tax Map 65. The parcel contains .627 acres, more or less, all of which is zoned B1.

Mr. George Springfield appeared and testified that he purchased the subject parcel in 1981, which was improved at the time by a two-bay garage. Mr. Springfield said the parcel was originally used as a gasoline and motor vehicle service station. The Applicant said the building has been vacant approximately 1-1/2 years and that the building has been on the parcel for approximately 40 years. The Applicant said that during the time he owned the property, it was leased to the State of Maryland for a period of time and was used as an automotive facility and following that, the building was leased for boat repairs, and then by a parcel delivery service. The witness said that the parcel has road frontage and entrances on MD Routes 7 and 755.

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The Applicant said that he wished to amend the application to delete the requested variance to the 10 foot buffer along any adjacent road right-of-way or adjacent residential lot. He also said that he wished to delete the request for rental and storage of trailers, boats and trucks; therefore, the matter before the Hearing Examiner is for approval of the Special Exception and a variance to the minimum 1 acre parcel requirement.

The Applicant said that the subject parcel is unique because the building and facility on the parcel were originally designed for automotive repairs and that the building was on the property prior to 1957, but that there was a 1-1/2 years lapse in automotive repair work. The Applicant said that he did not feel approval of the Special Exception at that location would cause any greater impact than elsewhere in the zoning district and pointed out that there is an active automotive repair shop which adjoins the subject property. He further testified that the variance would not be substantially detrimental to adjacent properties or materially impair the purpose of the Code because of other commercial uses in the immediate area.

Mr. Kenneth Nelson, the owner of the adjoining parcel, said that his family has operated an automotive repair business for three generations on their property. Mr. Nelson said he did not recall an automotive repair business on the subject parcel, that he was interested in buying the subject parcel and he felt that approval of another automotive repair shop next to his business would cause unnecessary competition to his business. Mr. Nelson also questioned whether there were underground fuel tanks on the property and whether the Applicant would be required to install an oil interceptor system prior to beginning operations on the parcel.

The Staff Report of the Department of Planning and Zoning recommends approval of the requested Special Exception and variance to the minimum lot area and provides:

“The subject property was used commercially before 1957. There was a gas and service station at this location before zoning regulations were enacted. After the removal of the gas pumps a few years ago, the property was still used for auto repair, boat sales and repairs. The property has remained vacant for at least a year and, therefore, has lost its non-conforming status for this type of use in a B1 District.”

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**“The subject property is to utilize an existing building that was designed and intended for automotive repair and service. The requested variance from the acreage requirement should have little or no adverse impact on the intent of the Code and/or the surrounding neighborhood.”**

### **CONCLUSION:**

**The Applicant filed a request for a Special Exception for an automotive repair shop on the subject parcel and requested a number of variances to the Code requirements. At the hearing, the Applicant withdrew all of the requests except for the request for the Special Exception to operate an automotive repair shop on the subject parcel and a variance to the minimum 1 acre requirement for the shop.**

**The Applicant is, therefore, requesting a Special Exception to Section 267-53(D)(3) of the Harford County Code, which provides:**

**“Motor Vehicle Repair Shops. These uses may be granted in the AG and B1 Districts, provided that:**

- (a) A buffer yard at least 10 feet wide shall be provided along any adjacent road right-of-way or adjacent residential lot.**
- (b) The requirements of Section 267-39(C)(7) of this chapter for service stations and repair shops in the B2 and B3 Districts shall be met.**
- (c) Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires, and equipment shall be prohibited.**
- (d) The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purposes of Section 267-39(C)(7)(f) that each vehicle has been stored on the property for 90 days.**
- (e) The rental or storage of trailers, boats, and trucks shall be prohibited.**
- (f) Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the site plan submitted for Board approval.**
- (g) Materials, textures, colors and designs of fences, walls, and**

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screening shall be compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5 feet wide shall be provided also and shall include trees and shrubs that are at least 2 feet high when planted and that may be expected to form a year-round dense screen within 3 years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drivers of vehicles entering or exiting the parcel or any adjacent lot or parcel.

- (h) The fumes, odors and noise from the vehicle-related work shall be minimized.
- (i) A minimum parcel area of 1 acre shall be required.
- (j) In the AG District, the use shall be operated by the resident of the property.”

The Applicant said that he would comply with all conditions set forth in that Section except that the parcel contains .627 acres and he is, therefore, requesting a variance to the minimum lot requirement of 1 acre.

Special Exceptions are different and distinct from variances. A Special Exception contemplates a permitted use once prescribed conditions are met. A variance contemplates a departure from the terms of the ordinance to permit property to be used in an otherwise forbidden manner and where literal enforcement results in unnecessary hardship or unusual practical difficulty. Cromwell v. Ward, 102 Md. App. 424 (1995).

The appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular location proposed would have an adverse effect above and beyond those inherently associated with such special exception use, irrespective of its location within the zoning. Schultz v. Pritts, 291 Md. 1 (1981).

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The testimony of the Applicant was that the subject parcel was used prior to the implementation of zoning in Harford County as a service station/motor vehicle repair shop. The Applicant's allegations are corroborated by the Staff Report of the Department of Planning and Zoning and the evidence indicates that, for whatever reason, the automotive repair operation ceased existing for a period of 1 year and, therefore, lost its non-conforming status. The Applicant said he did not feel that approval of the Special Exception would have any greater impact if approved on the subject parcel than if approved elsewhere in the zoning district.

It should be noted that the subject parcel is located at the intersection of two State highways and the adjoining parcel is currently used as an automotive repair operation. The operator of the adjoining automotive repair business indicated that he was opposed to the Applicant's request because he felt it would cause increased competition, cause additional traffic and he expressed an interest in purchasing the subject parcel. The adjoining property owner also expressed concern about an oil interceptor system.

With respect to the oil interceptor system, before a use and occupancy permit is issued, if the oil interceptor is required, the Applicant will be required to install the system. In any event, an oil interceptor is not a zoning issue.

The Applicant has requested a variance from the minimum area requirement of 1 acre. The Applicant said the subject parcel contains .627 acres and that the parcel is unique because the parcel is non-conforming and a gas and automotive service business was operated on the parcel prior to 1957. The Applicant also said that the building on the parcel is primarily adapted to motor vehicle repairs and that he did not feel that approval of the variance would be detrimental to adjacent properties and would stimulate competition. The Applicant said that denial of the variance would cause an unnecessary hardship because the building is primarily constructed to be a motor vehicle repair shop.

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No evidence was introduced that approval of the Special Exception or variance would adversely effect the public health, safety or general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood, pursuant to Section 267-9(I).

Therefore, it is the finding of the Hearing Examiner that approval of the Special Exception on the subject parcel would not have any greater impact than if approved elsewhere in the zoning district. It is also the finding of the Hearing Examiner that the subject parcel is unique because the existing structure on the parcel was constructed prior to implementation of zoning regulations in Harford County and that the building was primarily constructed for motor vehicle repairs. It is, further, the finding of the Hearing Examiner that denial of the variance would cause an unnecessary hardship on the Applicant and that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

The Special Exception and variance to the minimum 1 acre lot area are hereby approved, subject to the following conditions:

1. The approval is for an automotive repair business only.
2. The Applicant shall submit a landscaping plan to the Department of Planning and Zoning for review and approval. The grass areas in front of the property shall be landscaped with low shrubbery and ground cover. The Applicant shall install a buffer area in the rear of the property along the existing residential use.
3. The Applicant shall submit a detailed site plan to reflect the buffer and storage areas for vehicles awaiting repair. The site plan shall be submitted for review through the Development Advisory Committee.
4. The Applicant shall keep detailed logs pertaining to the vehicles awaiting repair as set forth in Section 267-53(D)(3)(d) of the Harford County Code.
5. The use is subject to approval by the Health Department pertaining to fumes and noise.

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6. The Applicant shall comply with the regulations in Section 267-39(C)(7) of the Harford County Code.
7. The Applicant shall obtain all necessary permits and inspections.

**Date            APRIL 8, 1999**

**L. A. Hinderhofer  
Zoning Hearing Examiner**